

# City of New Orleans

## Department of Safety and Permits

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## Departmental Regulations for Alcoholic Beverage Outlets

PROMULGATION DRAFT

## **Departmental Regulations for Alcoholic Beverage Outlets**

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# **Departmental Regulations for Alcoholic Beverage Outlets**

## **Introduction**

Pursuant to the provisions of Chapter 10 of the Code of Ordinances of the City of New Orleans, the Department of Safety and Permits hereby promulgates departmental regulations for alcoholic beverage outlets, to provide clarity and consistent application of the laws and ordinances authorizing the sale of alcoholic beverages for on- or off-premise consumption.

## **Regulatory Standards**

The departmental regulations for alcoholic beverage outlets contained herein shall not be read or construed to supersede or replace any standards of licensing or conduct outlined in Chapter 10 of the Code of Ordinances of the City of New Orleans.

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### **Review of Applications for Alcoholic Beverage Permits**

- (1) The Department of Safety and Permits shall coordinate review of applications for Alcoholic Beverage Permits with all administrative agencies with regulatory authority over the property or proposed business operation. Such coordination shall include, but is not limited to:
  - a. Vieux Carré Commission: The Vieux Carré Commission shall independently evaluate whether the proposed business location complies with all ordinances, laws, and regulations jurisdictionally assigned to the Vieux Carré Commission and shall provide to the Department of Safety and Permits a written report and recommendations pertaining to the application.
  - b. Historic District Landmarks Commission: The Historic District Landmarks Commission shall independently evaluate whether the proposed business location complies with all ordinances, laws, and regulations jurisdictionally assigned to the Historic Districts Landmarks Commission and shall provide to the to the Department of Safety and Permits a written report and recommendations pertaining to the application.
  - c. Department of Sanitation: The Department of Sanitation shall conduct whatever investigations may be required to properly certify in writing to the Department of Safety and Permits whether or not the proposed business location complies with:
    - i. Section 10-136 of the Code of Ordinances of the City of New Orleans, regarding neighborhood compatibility requirements; and,
    - ii. Section 138-45 of the Code of Ordinances of the City of New Orleans regarding waste disposal contracting requirements for certain uses; and,
    - iii. Compliance with all applicable provisions of the Code of Ordinances of the City of New Orleans as it pertains to environmental or sanitary requirements.

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- d. Department of Finance, Bureau of Revenue: The Department of Finance shall be electronically provided with a request for tax clearance to ensure that the taxation account of an establishment is current with the City of New Orleans. This request for tax clearance does not require disclosure of confidential taxation data, but only confirms taxation account status as would be provided by the Department of Finance in a written tax clearance letter.
- (2) The Department of Safety and Permits shall not issue an Alcoholic Beverage Permit or renewal if the location does not comply with the laws, ordinances, and regulations of all jurisdictional agencies.

### **Neighborhood Compatibility Requirements**

Section 10-136 of the Code of Ordinances of the City of New Orleans provides baseline standards of neighborhood compatibility for businesses holding an alcoholic beverage permit. In addition to the standards provided in Section 10-136, the following shall be required elements of a litter abatement program:

- (1) The name and phone number of the particular individual, be it the manager, owner, etc., to contact should a violation of the litter abatement plan occur.
- (2) If applicable, a photo of the screened dumpster used in conjunction with the petitioned site that is visible from the public right-of-way or parking area. All fences shall be a six-foot opaque fence with gates. No dumpsters are permitted to be placed within the public right-of-way.
- (3) The dates, general time, and location area for the sweeping and periodic hosing of the public right-of-way. At a minimum, every alcoholic beverage outlet shall perform daily sweeps of the entirety of the public right-of-way fronting the alcoholic beverage outlet, the adjoining parking lot, and any other public rights-of-way directly bounding an outlet, if applicable. If the requirements contained herein

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are contracted out by an alcoholic beverage outlet to a third party, a copy of the executed contract shall be attached to the litter abatement plan form.

- (4) Presentation of a site plans indicating all litter receptacles outside an alcoholic beverage outlet.
- (5) A copy of the applicant's solid waste contract outlining the frequency of trash pick-up including the days and times the waste collection is scheduled to occur.
- (6) All applicants shall file any amendments that deviate from their initially filed litter abatement plan form with the department of safety and permits. Failure to have an updated litter abatement plan shall constitute a violation of this Chapter.

### **Alcoholic Beverage Permit Required Prior to Operating**

Pursuant to Sections 10-47 and 10-48 of the Code of Ordinances of the City of New Orleans, any person wishing to engage in the business of offering alcoholic beverages for sale shall obtain a permit from the Department of Safety and Permits prior to purchasing alcoholic beverages for sale or engaging in the sale of such alcoholic beverages. Failure to obtain a permit as a prerequisite to engaging in such business shall result in the denial of any subsequent or pending application for any alcohol permit for a period of one year from the date of denial. The denial shall apply to the applicant, the spouse/domestic partner of the applicant, an employer or employee of the applicant, and any partner, member, officer, director, manager, or any person holding a ten percent or greater financial interest in the applicant's business entity that involves the sale of alcoholic beverages.

Denial of such subsequent or pending application is appealable to the Alcoholic Beverage Control Board of the City of New Orleans as provided by Section 10-76 of the Code of Ordinances of the City of New Orleans.

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### **Manager's Permits**

Application for a Manager's Permit shall be filed with the Director of Safety and Permits in a form and manner determined by the Director for that purpose. No applicant may be issued a Manager's Permit unless such person possesses the qualifications required of an applicant for an Alcoholic Beverage Permit, pursuant to Section 10-105 of the Code of Ordinances of the City of New Orleans.

In addition to such forms as may be required, applicants for a Manager's Permit shall submit to criminal background check, as outlined in the "Criminal Background Checks required for Permit issuance" section of these Regulations.

### **Application by Juridical Persons**

- (1) If the applicant for an Alcoholic Beverage Permit is a business entity, all partners, officers and directors and all stockholders or members owning in the aggregate more than ten percent of stock or membership interest in the business entity shall possess the qualifications required in Section 10-101 of the Code of Ordinances of the City of New Orleans, and shall furnish their federal identification number, their Louisiana Department of Revenue business account number, their social security number, and their correct home address. The requirements as to citizenship and residence do not apply to officers, directors, and stockholders of corporations or members of limited liability companies. The business entity shall be either organized under the laws of the state of Louisiana or qualified to do business within the state of Louisiana.
  - a. If the permit holder is a corporation or limited liability company, the permit holder shall notify the department of safety and permits of any changes in the officers, directors, managers, shareholders, members, or persons previously qualified to conduct or manage the business within fifteen (15) days of the date of such changes. The notification shall include the suitability documents and information

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for each new individual required to possess the qualifications of the applicants.

- (2) The holder of a permit issued under the provisions of Chapter 10 of the Code of Ordinances of the City of New Orleans may alter the form of the business entity that holds the permit if the ownership of the newly created business entity is identical to the ownership of the former business entity.
  - a. If the holder of the permit converts to a different form of business, the holder of the permit shall file notice with the department of safety and permits relative to the change in the form of the business entity at least thirty days prior to the anticipated change in form.
  - b. After satisfying the requirements of subsection 'a,' above, and establishing the newly created business entity, that entity may use the permit and exercise any privileges granted by the permit.
- (3) When the ownership of the business is transferred, the new owner shall be allowed to continue to operate using the transferor's permit until a new permit is issued or denied, if the new owner notifies the department of safety and permits of the transfer within five days of the transfer and applies for a new alcoholic beverage permit within fifteen days of the transfer of ownership.
- (4) Any permit to engage in any business or operation regulated by Chapter 10 of the Code of Ordinances of the City of New Orleans held by any business entity shall not be renewed if the legal or beneficial ownership has changed since issuance of the original permit.
  - a. For the purposes of this section, legal or beneficial ownership shall be defined as any person owning in the aggregate more than ten percent of stock or membership interest.
  - b. Any business entity which is barred under this section from renewing a permit may file an application as provided in Section 10-101 and 10-102 of the Code of Ordinances of the City of New Orleans, and may be issued a permit unless otherwise unqualified.



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### **Alcoholic Beverage Permits Nontransferable**

Pursuant to Section 10-129 of the Code of Ordinances of the City of New Orleans:

- (1) A permit issued pursuant to the provisions of Chapter 10 of the Code of Ordinances of the City of New Orleans is a purely personal privilege and is subject to suspension or revocation as provided in this code. It is not property, is not subject to execution, does not pass by descent, is not assignable, and ceases upon the death of the holder.
- (2) An alcoholic beverage permit is good from the time of issuance until its expiration as provided in section 10-132, unless sooner revoked or suspended in accordance with law.
- (3) No person may use a permit or exercise any privileges granted by the permit except at the place, address, premises, or location, and in the manner for which the permit is issued.

### **Sales Restricted to within Premises**

Section 10-401 restricts the sale of alcoholic beverages to within the established boundaries of the licensed premises and further provides prohibitory language relative to Class B permittees conducting transactions through a window or door. Additionally, Section 10-403 prohibits the placement or maintenance of benches or seats on the sidewalks bounding the licensed premises. This Section provides the enforcement parameters for implementation of the language provided in Sections 10-401 and 10-403 of the Code of Ordinances of the City of New Orleans:

- (1) *Premises* as provided in Sections 10-401 and 10-403 shall be defined as: “The boundaries of a business establishment as provided to the Department of Safety and Permits at the time of obtaining a Certificate of Occupancy for a proposed use. The premises shall not include adjoining tenant spaces, exterior spaces or yards, or accessory structures unless specifically approved by the Department of Safety and Permits and included on the proposed plans.”

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- (2) No business establishment holding an alcoholic beverage permit issued by the City of New Orleans shall conduct sales transactions through a window or door to a customer on the sidewalk or any portion of a public right-of-way.
- (3) No bar, counter, or other service location shall be established within ten (10) feet of the outermost wall of the licensed establishment.
  - a. This section is applicable only to new improvements made to or within a licensed establishment. Existing bars, counters, and/or service areas which are permanent improvements within a structure may remain in place as spatially non-conforming elements of the premises. However, all establishments are subject to the restriction of section (2), above.
  - b. This section is applicable to all temporary bars, counters, and/or service areas regardless of any previous or historical use or placement of same.
- (4) The prohibition on benches, seating, and service to patrons seated on the public right-of-way shall not be applicable to locations holding a valid Sidewalk Use Permit issued pursuant to Chapter 146 of the Code of Ordinances of the City of New Orleans, such operations may only occur in a manner and location consistent with such permitting.
  - a. Any space on the public right-of-way authorized for use in conjunction with a licensed establishment shall be considered part of the licensed premises.

### **Receipts to be produced, maintained.**

Alcoholic beverage outlets shall generate documenting receipts for all alcoholic beverage sales, providing the transaction date, type, quantity, and price of the alcoholic beverages sold. All receipts must be kept by an Alcoholic beverage outlet for at least three years from the date of transaction and shall be provided to the Department of Safety and Permits upon request.

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### **Annual Certification of Gross Sales**

Pursuant to Section 10-53(2), Class A – Restaurant Permittees are required to derive at least 50% monthly revenues, on average, from food and non-alcoholic beverage sales. Compliance with this standard shall be certified annually at the time of Alcoholic Beverage Permit renewal. Upon request of the Department of Safety and Permits, documentary evidence substantiating such certification may be required prior to approval of a Permit renewal application.

The Department of Safety and Permits reserves the ability to request such documentary evidence and to conduct an audit thereof at any time to ensure compliance with the applicable regulations. Certification of gross sales and compliance audits do not require remission of confidential taxation data, but will only evaluate sales numbers to distinguish alcohol sales from sales of other food/beverage offerings.

### **Penalty for Violation**

Any violations of these departmental regulations may be cited as a violation of procedurally adopted Departmental Regulations, promulgated pursuant to Section 2-1000 of the City Code. Penalties and administrative procedure for addressing such violations shall be as provided by Chapter 10 of the Code of Ordinances of the City of New Orleans through Administrative Adjudication provided by Chapter 6 of the City Code and/or the Alcoholic Beverage Control Board of the City of New Orleans.